



STATE OF NEW HAMPSHIRE BOARD OF MEDICINE NEWSLETTER

WINTER/SPRING 2012

Continuing Medical Education and the Role of the NH Medical Society

Licensees in New Hampshire are required by the Medical Practice Act to renew their licenses every two years. As part of their renewal process, a licensee not only has to complete a renewal application, he has to provide proof of having completed 100 hours of Continuing Medical Education during the previous 24 month cycle. For example, if your license expires on June 30, 2012, you must submit Continuing Medical Education documentation for the period of January 1, 2010 through December 31, 2011. While a completed renewal application is due on or before June 30th at the Board of Medicine, a completed CME certification is due on or before February 28th at the NH Medical Society.

While one's renewal application should be submitted to the Board of Medicine, a licensee has to separately file proof of CME with the NH Medical Society. The NH Medical Society is not a part of the Board of Medicine, but is simply its agent for collecting licensee's CME materials. Remember that when you renew your license, you send information to two separate offices: the Board of Medicine and the New Hampshire Medical Society.

The NH Medical Practice Act delegates to the NH Medical Society the responsibility of collecting, tracking and monitoring CME credits for licensees. Any deficiencies noted in a licensee's reporting of CME are referred to the Board of Medicine. If a licensee does not fulfill his requirements for CME in a reporting cycle, he can be subject to disciplinary action by the Board. Refer to RSA 329:16-g and the Board's Administrative Rules -- Med 402 -- for the specific rules that describe the CME requirements.

Have you completed your renewal application? If it is your year to renew, you must submit your application before June 30th. Remember that you also have to submit your CME credits to the NH Medical Society by February 28th.

FYI: The law governing the Board of Medicine is found at RSA 329 and is known as the Medical Practice Act. The Board is also governed by administrative rules that guide the application of the RSA. The full text of the laws and rules can be found at the Board's website at www.nh.gov/medicine/laws. Changes in the Board's rules were highlighted in Summer/Fall 2011 edition of the newsletter. See the Winter 2011 edition of the newsletter for the recent changes to the Medical Practice Act.

Winding Down or Closing Your Practice – What Are Your Obligations?

In recent months, several NH licensees have abruptly closed their practices, with little or no notice to their patients. In these instances, patients are left without accessible medical care and without the ability to see a doctor, fill a prescription or get their medical records. All of these situations are unacceptable to the patient and in violation of the NH Medical Practice Act and Administrative Rules that govern medical practice in NH. Below is a summary of some things that must be done before a practice can close its doors permanently.

Medical Records

Prior to closing one's practice, a licensee shall make arrangements for the custody and storage of all

patient medical records. The optimal way to achieve this is to transfer all patient records to another medical provider. This allows for continuity of care for the patient and the safekeeping of medical records from one provider to another.

If a licensee is not able to arrange for his patient records to be transferred to another medical provider, he must keep a copy of the medical records for at least seven years in a location that is compliant with all HIPAA and other federal and state regulations. He must also arrange for someone to be available to access and copy the records, if and when a former patient makes a request for them. The licensee must keep an accurate accounting of the medical records even after the practice closes.

30 Day Letter

In addition to one's obligations regarding the safekeeping and transfer of medical records, a licensee who is closing his practice must inform all of his patients of his intentions prior to the closing of the office. The licensee shall send at least 30 days in advance of closing his practice a letter to each of his patients informing them of his intentions. The letter should also provide information regarding how and where the patients can obtain their medical records.

NEW LAW, PLEASE TAKE NOTE:

Pursuant to RSA329:16-f, II, all licensees shall provide the board with a copy of any notice of complaint, action for medical injury, or claim received from or disciplinary action taken in a jurisdiction outside of this state within 30 days of receipt of such notice or action.

Professionals Health Program – Working with the Board of Medicine to Help Licensees Maintain a Safe and Healthy Practice

The Board of Medicine is responsible for protecting the safety of the New Hampshire public. This means that if and when a licensee (MD, DO or PA) poses a threat to that safety, the Board must act on behalf of the public. At times the Board disciplines

a licensee for violation of the Medical Practice Act, but at time a licensee needs treatment themselves, either in lieu of or in addition to disciplinary action. This treatment may need to begin with an “intervention” because the licensee does not recognize that he or she needs help.

In those cases, the Board relies on the expertise of the NH Professionals Health Program with Dr. Sally Garhart as the director and Deanne Chapman, P.A. as the assistant director to assess and recommend non-disciplinary measures for a licensee to determine if there is a need of an assessment, alcohol or drug treatment, therapy, coaching, education or other therapeutic intervention to restore the licensee's ability to practice medicine in a safe and healthy manner. Dr. Garhart is Board Certified in Internal, Occupational and Addiction Medicine.

Since July 2011, the Professionals Health Program has been assisted by funds specifically designated from licensing fees that enable the PHP to work with NH licensees.

When an investigation reveals that a licensee has a potential substance use disorder, mental health problem or disruptive behavior issue, the Board may recommend that the licensee contract with the PHP to engage in a meaningful program of counseling, therapy and other appropriate measures to return to practice without endangering public safety.

When a licensee enters into a monitoring contract with the PHP, the licensee agrees to have his compliance monitored by the PHP and will also rely on the PHP to advocate on his behalf and provide help, if a relapse occurs. The goal of a licensee that enters into a contract with the PHP is to engage in a meaningful program of recovery or treatment that will allow the licensee to either retain or begin the process to regain licensure and the ability to safely and effectively practice medicine in the state of New Hampshire.

The Board of Medicine encourages all providers licensed by the Board to seek help before there is a crisis with the goal of avoiding potential problems. The NH PHP would then recommend effective evaluation and treatment for the provider which

might involve a medical leave of absence with a confidential monitoring agreement, if indicated. Taking care of patients over a lifetime is both physically and emotionally challenging. The Board of Medicine values healthy providers and has established a way to help those who need treatment. Dr. Garhart's contact number is 491-5036.

Have any suggestions on patient care improvements like the one featured in this newsletter? Have any ideas, suggestions or comments about the newsletter, email them to kathryn.bradley@nh.gov.

The Medical Review Subcommittee needs assistance from time to time in its review of the standard of care in its investigations of licensees. The work involved includes a complete review of medical records and the writing of an expert report on your findings. If you are interested in considering this opportunity (CME Category 2 credit is also available for the work), contact Dr. Douglas Black at (603)271-0570.

Recent Disciplinary Action Taken by the Board

The following are the public disciplinary actions that were taken by the Board of Medicine between July 1, 2011 and December 31, 2011.

7/8/11 Rafael Tejada, M.D. The Board of Medicine approved a Settlement Agreement for Dr. Tejada. Dr. Tejada failed to properly diagnose and treat bilateral acute bronchopneumonia with systemic deoxygenation, which may have contributed to the patient's death. Dr. Tejada is reprimanded and assessed an administrative fine in the amount of \$1,000.00. Dr. Tejada is required to participate in 20 additional CMEs in the area of emergency airway management.

7/11/11 Peter T. Pacik, M.D. The Board of Medicine issued a Final Decision and Order in the Matter of Peter T. Pacik, M.D., Docket # 11-02. On June 1, 2011, the Board held a hearing after which the Board found that Dr. Pacik engaged in unprofessional conduct by selling prescription-

strength skin care products via the Internet without first establishing a valid physician-patient relationship and by willfully and repeatedly violating RSA 329:17, VI(d). Dr. Pacik is reprimanded and assessed an administrative fine in the amount of \$635.00. Dr. Pacik is ordered to cease and desist from selling prescription strength medications to customers via the Internet without first establishing a physician-patient relationship.

8/3/11 Walter J. Griffiths, M.D. The Board of Medicine approved a Settlement Agreement for Walter J. Griffiths, M.D. On September 1, 2010, the Vermont Board of Medical Practice issued a final administrative order against Dr. Griffiths. Accordingly, the New Hampshire Board has taken reciprocal action. Dr. Griffiths is reprimanded, is required to retain a "practice monitor", and is required to complete continuing medical education in practice management and opiate maintenance treatment.

8/3/11 Michelle F. Lackovic, M.D. The Board of Medicine approved a Final Order in the Matter of Michelle F. Lackovic, M.D. On July 6th, the Board held a hearing to determine whether Dr. Lackovic failed to comply with the terms of her September 2010 Settlement Agreement by failing to complete the required continuing medical education course. The Board found that Dr. Lackovic failed to comply. Dr. Lackovic is reprimanded and assessed an administrative fine in the amount of one dollar. It is further ordered that Dr. Lackovic is restricted from prescribing schedule II and III narcotics for a minimum of twelve months, effective August 15, 2011.

9/7/11 William B. Weeks, M.D. The Board of Medicine approved a Settlement Agreement for William B. Weeks, M.D. Dr. Weeks twice violated his five-year contract that requires him to be monitored for alcohol use. Dr. Weeks is reprimanded and assessed an administrative fine in the amount of \$1,000.00.

10/5/11 William M. Todd, M.D. The Board of Medicine issued a Final Decision and Order in the Matter of W. Michael Todd, M.D. The Board held a hearing on July 6, 2011 to determine whether Dr. Todd failed to treat properly a patient's major

alcohol withdrawal in the emergency room. The Board finds that on September 4, 2009, Dr. Todd displayed medical practice which was incompatible with the basic knowledge and competence of an emergency room physician. Dr. Todd is reprimanded and is required to participate in an additional four hours of CMEs in the area of alcoholic and substance abuse patients.

10/5/11 **Malcolm S. Beaudett, M.D.** The Board of Medicine approved a Settlement Agreement for Malcolm Beaudett, M.D. Dr. Beaudett failed to maintain appropriate boundaries with a patient. He is required to complete the Case Western Reserve School of Medicine CME Program in Medical Ethics, Boundaries and Professionalism. Dr. Beaudett is also reprimanded and assessed an administrative fine in the amount of \$2,000.00.

10/28/11 **Steven A. Chern, M.D.** The Board approved a Preliminary Agreement for Practice Restrictions for Steven Chern, M.D. Dr. Chern has professional misconduct allegations pending before the Board. Dr. Chern voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves his return to practice.

11/2/11 **Don A. Holshuh, M.D.** The Board of Medicine approved a Final Order in the Matter of Don A. Holshuh, M.D. On April 6, the Board issued an emergency license suspension for Dr. Holshuh. On August 3, the Board held a hearing, which continued to September 7, to determine whether Dr. Holshuh had been intoxicated to such a degree that he presented a danger to himself. The Board found, among other things, that Dr. Holshuh engaged in professional misconduct: by purchasing controlled medication for his personal use; by failing to maintain his sobriety; by neglecting to address his mental and physical health; by returning to his practice after consuming alcohol; and by failing to care for his patients due to his consumption of alcohol. Dr. Holshuh is reprimanded and his license is suspended for at least one additional year from the date of the Board's Final Order. Dr. Holshuh is required to participate in a residential treatment program; engage in a

seven-year contract for monitoring by NHPHP; and undergo a forensic psychiatric evaluation.

11/2/11 **Marcy K. Traum, M.D.** The Board approved a Preliminary Agreement for Practice Restrictions for Marcy Traum, M.D. Dr. Traum has professional misconduct allegations pending before the Board. Dr. Traum voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves her return to practice.

12/12/11 **Michael B. Stevens, M.D.** The Board approved a Settlement Agreement for Michael B. Stevens, M.D. On August 18, 2010, the Massachusetts Board of Registration in Medicine issued a Consent Order and Probation Agreement. Accordingly, the New Hampshire Board has taken reciprocal action. Dr. Stevens' license is indefinitely suspended, though such suspension is stayed pending Dr. Stevens' compliance with all terms and conditions of the Massachusetts Consent Order and Probation Agreement. Dr. Stevens is permanently restricted from prescribing medication listed on the Drug Enforcement Administration's Schedule II, III, IV and V.

12/14/11 **Michael E. Schorsch, M.D.** The Board of Medicine issued a Final Decision and Order in the Matter of Michael E. Schorsch, M.D., Docket #11-11. On October 5, the Board held a hearing after which the Board found that Dr. Schorsch technically committed the violations alleged in the Notice of Hearing. As Dr. Schorsch demonstrated a commitment to curing these defects, the Board followed Hearing Counsel's recommendation and did not impose discipline.

Does the Board of Medicine have your current e-mail address? If not, please provide it to nichole.mooney@nh.gov. We want to keep you informed on the latest Board news and will be sending the newsletter via e-mail beginning with this edition.

During FY 2011, the Board of Medicine investigated 167 complaints and 94 malpractice suits files in New Hampshire. The Board also received 315 referrals for investigation from other sources, including the National Practitioner Database Reports, insurance claim reports and reports of hospital disciplinary action. These investigations resulted in 31 formal disciplinary actions and 200 non-disciplinary confidential letters of concern.

**STATE OF NEW HAMPSHIRE
BOARD OF MEDICINE
2 INDUSTRIAL PARK DRIVE, #8
CONCORD, NH 03301
PHONE: 603-271-1203
FAX: 603-271-6702
WEBSITE: www.nh.gov/medicine**

A reminder that pursuant to RSA 329:16-f, I, all licensees must maintain a current business address on file with the Board. Any changes in your address shall be reported to the Board within 30 days from the date of the change. Changes can be sent to nichole.mooney@nh.gov.

NH Board of Medicine Mission Statement

To protect the public from the unprofessional, incompetent, or impaired practice of medicine. The Board of Medicine issues licenses to qualified Allopathic and Osteopathic physicians and physician assistants based on recognized credentialing standards. The Board regulates the minimum standards of professional conduct and continued competence and takes disciplinary action against licensees who fail to meet these standards.